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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/011,852	12/04/2001	David M. Smart	1935-1-3	5227

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EXAMINER

MORRISON, NASCHICA SANDERS

ART UNIT PAPER NUMBER

3632

DATE MAILED: 09/13/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/011,852

Applicant(s)

SMART, DAVID M.

Examiner

Naschica S Morrison

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 December 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 12-19 is/are allowed.
- 6) ☒ Claim(s) 1-11 and 20-33 is/are rejected.
- 7) ☒ Claim(s) 34 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

This is the first Office Action for serial number 10/011,852, Collapsible Support with Arms and Legs and Method for Using, filed on December 4, 2002. Claims 1-34 are pending.

Specification

The disclosure is objected to because of the following informalities: on page 5, line 26 insert --of the-- before "extended"; on page 12, line 16 "tube 28" should be --tube 43--. Appropriate correction is required.

Claim Objections

Claim 25 is objected to because of the following informalities: on line 2, "an leg" should be --a leg--. Appropriate correction is required.

Claim 28 is objected to because of the following informalities: on line 2, "having leg" should be --having a leg--. Appropriate correction is required.

Claim 32 is objected to because of the following informalities: on line 1, delete "the" before "moving". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 5, 6, 20-29, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 5 recites the limitation "the legs" in line 1. There is insufficient antecedent basis for this limitation in the claim.

Claim 6 recites the limitations "the arms" and "the legs" in lines 1-2. There is insufficient antecedent basis for these limitations in the claim.

Regarding claim 20, line 7 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "an arm" in claim 20, line 7 is intended to refer to "an arm" in claim 20, line 3. *(See also line 1 of claim 21.)*

Regarding claim 25, the limitation "the ring" in line 3 should be --the moving leg ring-- to provide sufficient antecedent basis for this limitation in the claim.

Regarding claim 25, line 7 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "a leg" in claim 25, line 7 is intended to refer to "a leg" in claim 25, line 3. *(See also line 1 of claim 26.)*

Regarding claim 31, line 2 has ambiguous claim terminology where it is unclear whether latter recitations of originally cited terminology are intended to refer to the originally cited terms. It is unclear if "an arm" in claim 31, line 2 is intended to refer to "an arm" in claim 30, line 3.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-6, 9-11, 30, and 31 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 3,069,021 to Gray. Regarding claims 1-6 and 9-11, Harris discloses an extendable and retractable apparatus comprising: a body (5) including a longitudinal axis; an arm attachment assembly (36 generally) including a plurality of arms (16) that are attached to the body and extendable to an extended position that is perpendicular to the longitudinal axis; a leg attachment assembly (60 generally) including a plurality of legs (12) that are attached to the body and extendable to an extended position; a biasing member (2, 42, 60) linked to the arms and legs and operable to simultaneously move the arms and legs and bias the arm and legs to a retracted position; a locking mechanism (44, 64 & 66) operable to retain the arm and leg in the extended position; and an actuating member (42 and 60) operable to move the arm and leg, wherein the arms and legs are retractable such that they are parallel with the longitudinal axis of the body (5). Regarding claims 30 and 31, the method steps recited therein are deemed to be anticipated by the function of the structure of the apparatus as discussed above.

Claims 20-23 and 30-33 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,819,961 to Harris. Regarding claims 20-23, Harris

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discloses an arm attachment assembly comprising: moving arm ring (36) including a central axis and arm attachment portions (adjacent 40 and 56), wherein the ring is attachable to a tube and two arms (38, 54) are pivotally attached to the arm attachment portions; wherein the arms (38, 54) include an attachment end (40, 56) pivotally attached to the moving arm ring (36) and an arm body (42 and 58 generally) pivotally attached to the arm end (44, 60) of the arm links (46, 62); a fixed arm ring (50) attachable to a tube and having an arm-link attachment portion (adjacent 48 and 64); the arm links (46, 62) having a ring end (48, 64) pivotally attachable to the fixed arm ring (50). Regarding claims 30-33, Harris discloses the method steps of: moving an arm attachment assembly including the step of moving/pushing an arm ring/actuating member (36) toward a fixed arm ring (50); moving a leg attachment assembly including the step of moving/pushing a moving leg ring/actuating member (80) toward a fixed leg ring (86), wherein an arm and leg are moved to an extended or retracted position; locking the arm and leg in the extended position (col. 3, lines 19-27 and col. 4, lines 4-7); and placing the leg and body on a surface such that the arm is suspended above the surface (Fig. 1 generally)

Claims 25-28 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,934,628 to Bosnakovic. Regarding claims 25-28, Bosnakovic discloses a leg attachment assembly comprising: a moving leg ring (54) including a central axis and leg attachment portions (60), wherein the ring is attachable to a tube and two legs (6) are pivotally attached to the leg attachment portions; wherein the legs (6) include an attachment end (adjacent 66) pivotally attached to the moving leg ring (54) and a leg

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body (6 generally) pivotally attached to the leg end (76) of leg links (8); a fixed leg ring (18) attachable to a tube and having an leg-link attachment portion (22 generally); the leg links (8) having a ring end (72) pivotally attachable to the fixed leg ring (18).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Gray. With regards to claims 7 and 8, Gray discloses the support as applied above, but does not teach the legs being extended to a non-zero angle less than 90 degrees to the longitudinal axis. It would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the legs to be extendable to an angle in the range of 0 to 90 degrees since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art.

Claim 24 is rejected under 35 U.S.C. 102(b) as being unpatentable over Harris. Regarding claim 24, Harris discloses the arm attachment assembly as applied above, but does not teach the arms being spaced 180 degrees apart. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the arm attachment assembly by providing the arms spaced at various degrees apart including 90, 120, and/or 180 degrees, since it has been held that the

optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Claim 29 is rejected under 35 U.S.C. 102(b) as being unpatentable over Bosnakovic. Regarding claim 29, Bosnakovic discloses the leg attachment assembly as applied above, but does not expressly teach the legs being spaced 90 degrees apart. However, it would have been obvious to one of ordinary skill in the art at the time the invention was made to have modified the leg attachment assembly by providing the legs spaced at various degrees apart including 90 and 120 degrees, since it has been held that the optimization of proportions in a prior art device is a design consideration within the skill of the art. In re Reese, 290 F.2d 839, 129 USPQ 402 (CCPA 1961).

Allowable Subject Matter

Claims 12-19 are allowed.

Claim 34 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance: although the prior art of record discloses many of the limitations of the claims, it fails to further teach a support comprising: an inner tube telescopically disposed within an outer tube; an arm attachment assembly including a fixed arm ring, a moving arm ring, and an arm; a leg attachment assembly including a fixed leg ring, a moving leg ring, and a leg; and a lock for retaining the arm and leg in an extended position, wherein the moving arm and leg

rings are attached to the inner tube and are moveable relative to the outer tube such that the attachment assemblies are operable to move the arm and leg to the extended position as the inner tube moves.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Conclusion


The prior art made of record and not relied upon is considered pertinent to applicant's disclosure: 816158 to Erickson; 984591 to Nelson; 1274849 to Bullerdick; 1525701 to Rose et al; 4183579 to Gonzalez y. Rojas; 5280841 to Van Deursen; 6260812 to Auke; 6389721 to Yang

The above references disclose collapsible supports relevant to Applicant's invention.

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Naschica S. Morrison, whose telephone number is (703) 305-0228. If attempts to reach the examiner are unsuccessful, the examiner's supervisor, Leslie Braun can be reached at 703-308-2156. The fax machine telephone number for the Technology Center is (703) 872-9326 (formal amendments) or (703) 872-9327 (After Final amendments).

Any inquiry of a general nature or relating to the status of this Application should be directed to the Technology Center receptionist at (703) 872-9325.


Naschica S. Morrison
Patent Examiner-Art Unit 3632
9/9/02


ANITA KING
PRIMARY EXAMINER